



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 18, 2013

Mr. Robert Schell  
Assistant Director General Counsel  
North Texas Tollway Authority  
5900 West Plano Parkway, Suite 100  
Plano, Texas 75093

OR2013-01119

Dear Mr. Schell:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 476616.

The North Texas Tollway Authority (the "authority") received a request for the resumes and cover letters submitted by the top three candidates or the candidates made public for the position of deputy executive director. You claim portions of the submitted information are exempted from disclosure under sections 552.117 and 552.137 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have submitted only the resume for one individual. To the extent additional responsive information existed on the date the authority received the request, we presume the authority has released it. If not, you must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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<sup>1</sup>Although you raise section 552.024 of the Government Code as an exception to disclosure, we understand you to claim section 552.117 of the Government Code, as this is the proper exception for the substance of your argument. Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See* Gov't Code § 552.024(c).

Section 552.117 of the Government Code exempts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. You state the individual whose information is at issue made a request for confidentiality pursuant to section 552.024. To the extent this individual's election was timely, the authority must withhold the personal information we have marked under section 552.117(a)(1) of the Government Code. If this individual's election was not timely under section 552.024, the authority may not withhold the information we have marked on that basis.

Section 552.137 of the Government Code provides, "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). Accordingly, the authority must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its release.<sup>2</sup>

The authority asserts the individual to whom the resume belongs may have an interest in its release. Accordingly, we understand the authority notified this individual of the request and of his right to submit arguments explaining why the submitted information should not be released. *See id.* § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released). We have not received arguments from this individual or any other interested party stating why the remaining information should not be released. Accordingly, the authority may not withhold the remaining information on that basis.

In summary, to the extent the individual whose personal information we marked timely elected confidentiality, the authority must withhold this information under section 552.117(a)(1) of the Government Code. The authority must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner

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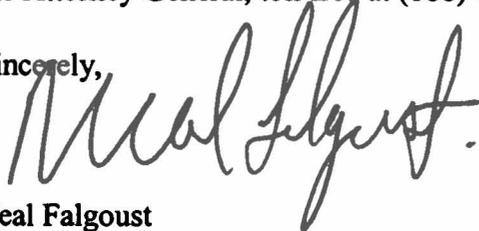
<sup>2</sup>Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies permitting them to withhold certain categories of information, including the e-mail address of a member of the public under section 552.137 of the Government Code, without requesting a decision from this office.

of the e-mail address affirmatively consents to its release. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/ag

Ref: ID# 476616

Enc. Submitted documents

c: Requestor  
(w/o enclosures)